

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

BENJAMIN PRENTICE and SOPHIA  
FRANCIS,

Plaintiffs,

vs.

OFFICEMAX NORTH AMERICA, INC.

Defendant.

CIVIL NO. 2009/5

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

**OFFICEMAX NORTH AMERICA, INC.'S MOTION *IN LIMINE* TO EXCLUDE THE  
TESTIMONY AND "EXPERT REPORT" OF CAREN B. GOLDBERG**

Defendant OfficeMax North America, Inc. ("OfficeMax"), by and through its undersigned counsel, Ogletree, Deakins, Nash, Smoak & Stewart, LLC, hereby files this Motion to Exclude the Testimony and "Expert Report" of Caren B. Goldberg ("Goldberg"). As set forth in the accompanying memorandum of law, the opinions that Goldberg intends to offer at trial clearly fail to meet the requirements of Rule 401-402, and 702 of the Federal Rules of Evidence. Furthermore, those opinions are likely to lead to undue prejudice and confusion, and should therefore be barred pursuant to Rule 403.<sup>1</sup>

WHEREFORE, OfficeMax respectfully moves this Court to GRANT its motion, and enter an Order excluding the expert reports and proposed testimony of Caren B. Goldberg.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, LLC**

DATED: April 29, 2011

By: /s/ Micol L. Morgan  
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*Attorneys for OfficeMax North America, Inc.*

<sup>1</sup> Although OfficeMax contends that the materials appended to the accompanying Memorandum of Law provide a sufficient basis for this Court to grant the Motion to Exclude, OfficeMax in the alternative moves for a *Daubert* hearing.

*Prentice and Francis v. OfficeMax, Inc., et al.*  
Motion to Exclude Testimony and “Expert Reports”  
of Caren B. Goldberg  
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**CERTIFICATE OF SERVICE**

I certify that on April 29<sup>th</sup>, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

LEE J. ROHN, ESQ.  
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/s/ Micol L. Morgan